

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS
MICHAEL KEVIN DUPONT, *
PETITIONER *

* No. 04-11431-GAO

V.
DAVID NOLAN,
Respondant *

MOTION TO DELETE GROUNDS TWO AND FIFTEEN
WITH PRELIMINARY REASONS WHY APPENDI
RELATED GROUNDS SHALL NOT BECOME MOOT

PETITIONER MOVES TO DELETE OR DISMISS
GROUNDS TWO AND FIFTEEN FOR REASONS STATED IN
HIS POSITION ON OPTIONS FOR DELETION OF GROUNDS.

PETITIONER FURTHER AVERS UNDER PAIN
AND PENALTY OF PERJURY, pending FILING of his
WRENTHAM DISTRICT COURT consecutive sentence
of TEN YEARS UNSUPERVISED PROBATION WITH FIVE
OF SIX MONTH JAIL sentence suspended, THAT
MANFRED V SUPERINTENDENT 372 MASS 387 (1977)
PRECLUDES ANY APPENDI MOOTNESS decision, since
GRANTING 3,000 days is NECESSARY TO WIPE OUT
150 day suspended sentence VIOLATION RISK AND
consecutive sentence probation term. Also winning
GROUNDS EIGHT, NINE, TEN, ELEVEN, TWELVE AND THIRTEEN
PRECLUDE MOOTNESS WITH plea VACATED RETRIAL
higher sentence risk changing § 2254 TO A
§ 2241, so FULLY EXHAUSTED APPENDI RELATED GROUNDS
must be decided on the merits.

February 7, 2005
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GENERAL SUSAN REARDON
Respectfully submitted,
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